

**PT 01-77**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

---

---

**DIXON MAIN  
STREET, INC.  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 00-PT-0045  
(99-52-0051)  
P.I.N: 07-08-05-209-020**

---

---

**RECOMMENDATION FOR DISPOSITION**

**APPEARANCE:** Ms. Megan Heeg of Ehrmann, Gehlbach, Badger & Lee on behalf of Dixon Main Street, Inc. (hereinafter the "applicant").

**SYNOPSIS:** This proceeding raises the following issues: first, whether applicant qualifies as an "institution of public charity" within the meaning of Section 15-65(a) of the Property Tax Code, 35 ILCS 200/1-1 *et seq.* (hereinafter the "Code"); and second, whether real estate identified by Lee County Parcel Index Number 07-08-05-209- 020 (hereinafter the "subject property") was "exclusively used for charitable or beneficent purposes ...," as required by Section 15-65(a), during any part of the 1999 assessment year. The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Lee County Board of Review (hereinafter the "Board") on December 8, 1999. The Board reviewed the Application and recommended to the Illinois Department of Revenue (hereinafter the "Department") that the subject property be exempt as of December 7, 1999. The Department, however, denied the exemption by means of a determination, dated March 23, 2000, which found that the subject property was not in exempt ownership and not in

exempt use. Applicant filed a timely appeal to this determination and later presented evidence at a formal evidentiary hearing. Following submission of all evidence and a careful review of the record, I recommend that the Department's determination be affirmed.

**FINDINGS OF FACT:**

A. Preliminary Considerations

1. The Department's jurisdiction over this matter and its position therein are established by the admission of Dept. Group Ex. No. 1.
2. The Department's position in this matter is that the subject property is not in exempt ownership and not in exempt use. Dept. Group Ex. No. 1, Doc. C.
3. The subject property, located at 115 S. Hennepin, Dixon, IL, is improved with a one story office building. Dept. Group Ex. No. 1, Doc A-1.

B. Applicant's Organizational and Financial Structure

4. Applicant is an Illinois Not For Profit Corporation. Its organizational purposes, as specifically and directly set forth in its Articles of Incorporation and restated in its by-laws, are to:
  - a. promote the historic preservation, protection and use of Dixon Illinois' traditional downtown area, including that area's commercial, civic and religious enterprises and residences;
  - b. take remedial actions to eliminate the physical economic and social deterioration of Dixon, Illinois' traditional downtown and thereby promote Dixon's historic preservations, contribute to its community betterment while lessening the burdens of Dixon's government;
  - c. disseminate information of and promote interest in the preservation, history, culture, architecture and public use of Dixon, Illinois' traditional downtown area;

- d. hold meetings, seminars and other activities for the instruction of members and the public in those activities such as building rehabilitation and design, economic restructuring and planning management that fosters the preservation of Dixon, Illinois' traditional downtown area and enhance the understanding and appreciation of its history, culture and architecture;
- e. to aid, work with and participate in the activities of other organizations, individuals and public and private entities located within and outside of Dixon, Illinois, engaged in similar purposes; and,
- f. to solicit and receive and administer funds for educational purposes and to that end to take and hold by bequest, devise, gift, grant, purchase, lease or otherwise, either absolutely or jointly with another person or corporation, any property, real, personal, tangible or intangible, or any undivided interest therein, without limitation as to the amount of value; to sell, convey or otherwise dispose of any such property and to invest, reinvest or deal with the principal or the income thereof in such manner as, in the judgment of the corporations' Board of Directors, will best promote the purposes of the corporation without limitation, except such limitation, if any, as may be contained in the instrument under which such property is received, the bylaws of the corporation, or any laws applicable thereto.

Applicant Ex. Nos. 5, 6.

- 5. Applicant is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code pursuant to a determination issued by the Internal Revenue Service on March 25, 1998. Applicant Ex. No. 7.

6. Applicant obtained revenue from the following sources, and incurred the following expenses, during 1999:

<b>SOURCE</b>	<b>AMOUNT</b>	<b>% of TOTAL<sup>1</sup></b>
<b>REVENUES</b>		
Contributions from Individuals & Small Corporations	\$ 9,600.00	14%
Larger Corporate Donations	\$ 18,450.00	27%
Monies Received from the City of Dixon <sup>2</sup>	\$ 13,500.00	20%
Fundraising Event Income <sup>3</sup>	\$ 26,154.33	38%
Income from Sale of Products	\$ 298.34	<1%
Miscellaneous	\$ 520.46	1%
<b>TOTAL REVENUES</b>	<b>\$ 68,523.13</b>	
<b>SOURCE</b>	<b>AMOUNT</b>	<b>% of TOTAL</b>
<b>EXPENSES</b>		
Operating Expenses	\$ 35,011.58	62%
Program Expenses <sup>4</sup>	\$ 21,890.81	38%
<b>TOTAL EXPENSES</b>	<b>\$ 56,902.39</b>	

Applicant Ex. No. 13.

C. Applicant's Operational Structure and Programs

7. Applicant's operations, which concentrate entirely on Dixon's downtown commercial district, are overseen by one paid program manager who coordinates the work of four separate volunteer committees. Applicant Ex. Nos. 1, 13; Tr. pp. 19-21, 25-27.
8. The four committees are as follows:

<b>COMMITTEE NAME</b>	<b>FUNCTIONS</b>
Organization and Membership <sup>5</sup>	Building consensus and cooperation among the many groups and individuals who have a stake in the economic revitalization and historical preservation processes.

1. All percentages shown herein are approximations derived by dividing the amounts shown in the relevant category by the total revenues or expenses shown on the relevant line of the fourth column. Thus, \$9,600.00/\$68,523.13 = .1401 (rounded four places past the decimal) or 14%.

2. These monies represent amounts that the City of Dixon voluntarily gives to applicant out of its annual budget. As such, they are not payments for services rendered pursuant to contract. Tr. pp. 62-65.

3. For further information about these events, *see*, Finding of Fact 11, *infra*, at p. 7.

4. The expenses listed in this category represent a compendium of historical preservation, economic enhancement and other programs or events applicant sponsors in furtherance of its organizational purposes. For a more detailed breakdown of applicant's program expenses, *see*, Applicant Ex. No. 13.

Promotion	Marketing the assets of Dixon's downtown commercial district to customers, potential investors, new businesses, local citizens and visitors.
Design	Enhancing the physical appearance of Dixon's downtown commercial district by rehabilitating historic buildings, encouraging supportive new construction and developing design management systems that are sensitive to the goals of historic preservation.
Economic Analysis & Restructuring	Strengthening the existing economic base of Dixon's downtown commercial district while finding ways to meet new opportunities.

Applicant Ex. No. 1.

9. The volunteers who staffed these four committees contributed a total of 8,092 working hours to applicant's economic development and historic preservation projects during 1999. Their efforts: (a) produced net gains in business openings, relocations and expansions; (b) spurred the creation of 15 full time and 5 part time jobs; and, (c) fostered \$6,391,050.00 in private sector reinvestment for the downtown Dixon commercial area in 1999. Applicant Ex. No. 1; Tr. pp. 17-20.

10. Applicant's other accomplishments for 1999 included:

- Developing and overseeing free distribution of a brochure that enables visitors to take a self-guided walking tour of the several historic sites located in Dixon;
- Disseminating uniform construction and design standards for structural renovations to older buildings within Dixon;
- Enabling anyone interested in performing such renovations to consult with a licensed architect for free;
- Working with the Illinois Department of Transportation to facilitate installation of four new road signs welcoming visitors to Dixon;
- Assisting with arrangements which enabled two commercial businesses to move into Dixon's main business district;

---

5. Applicant does not have any paid members *per se* nor does it impose any membership dues. It does, however, invite all persons interested in furthering its organizational purposes to become members either by making voluntary financial contributions or becoming involved in one of its committees. Applicant Ex. No. 13; Tr. pp. 50-51.

- Working with other civic groups to promote development of recreational and shopping areas along Dixon's riverfront area.

Applicant Ex. Nos. 11, 13, 14, 15, 16, 17, 20; Tr. pp. 32-34, 58-59, 70-77, 82-83, 86-88, 91-100.

11. Applicant also sponsored a number of events, including, *inter alia*, a scarecrow festival at Halloween and a Christmas tree decorating contest, that raised funds for its operations during 1999. Applicant Ex. Nos. 1, 13.

D. Applicant's Ownership and Use of the Subject Property

12. Applicant acquired ownership of the subject property via a trustee's deed dated December 7, 1999. Applicant Ex. No. 3.
13. The subject property was vacant as of the date of purchase. However, immediately after that date, applicant began using the subject property (a) for various committee and planning meetings; and, (b) as a clearing house for disseminating information about its various projects. Tr. pp. 55-57, 72.

**CONCLUSIONS OF LAW:**

An examination of the record establishes that this applicant has not demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1999 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that the subject property does not qualify for such exemption under 35 ILCS 200/15-65(a) should be affirmed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-65(a) of the Property Tax Code, which states as follows:

**200/15-65. Charitable Purposes**

§ 15-65. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity.

35 ILCS 200/15-65(a).

Property tax exemptions are inherently injurious to public funds because they impose lost revenue costs on taxing bodies and the overall tax base. In order to minimize the harmful effects of such lost revenue costs, and thereby preserve the Constitutional and statutory limitations that protect the tax base, statutes conferring property tax exemptions are to be strictly construed in favor of taxation. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Therefore, any and all doubts that arise in an exemption proceeding, whether they be attributable to evidentiary deficiencies, debatable factual interpretations or questions of statutory construction, must be resolved in favor of taxation. *Id.*

The statutory requirements for exemption under Section 15-65(a) of the Property Tax Code are that: (1) the property be owned by an entity that qualifies as an “institution of public charity;” and, (2) the property be actually and exclusively used for charitable purposes.” 35 ILCS 200/15-65(a); Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

This record establishes that applicant was actively using the subject property as its base of operations since December 7, 1999. These operations are ones that fulfill applicant's organizational purposes, which, per its organizational documents, are to coordinate projects that facilitate economic development and historic preservation in the downtown Dixon area. (Applicant Ex. No. 5; Tr. pp. 26-27). Therefore, the threshold question herein is whether applicant coordinates such projects in a manner befitting a charitable institution.

By definition, a charitable institution operates to benefit an indefinite number of people in a manner that persuades them to an educational or religious conviction that benefits their general welfare or otherwise reduce the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893). It also: (1) has no capital stock or shareholders; (2) earns no profits or dividends, but rather, derives its funds mainly from public and private charity and holds such funds in trust for the objects and

purposes expressed in its charter; (3) dispenses charity to all who need and apply for it; (4) does not provide gain or profit in a private sense to any person connected with it; and, (5) does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Methodist Old People's Home v. Korzen, *supra*.

These factors are not to be applied mechanically or technically. DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 466 (2<sup>nd</sup> Dist. 1995). Rather, they are to be balanced with an overall focus on whether, and to what extent, applicant: (1) primarily serves non-exempt interests, such as those of its own dues-paying members (see, Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956); Morton Temple Association v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3<sup>rd</sup> Dist. 1987)) or, (2) operates primarily in the public interest and lessens the State's burden. (see, DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, *supra*; Randolph Street Gallery v. Department of Revenue, 315 Ill. App.3d 1060 (1<sup>st</sup> Dist. 2000)).

The totality of the evidence contained in this record fails to support the conclusion that applicant operates primarily in the public interest. Its organizational documents, which necessarily constitute the starting point for any analysis of whether applicant qualifies as an “institution of public charity” (Morton Temple Association v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3<sup>rd</sup> Dist. 1987)), are replete with references to the fact that applicant’s specific *raison d’être* is to promote the economic, aesthetic and other interests of a very limited geographical area, that being the “traditional downtown area” of Dixon, Illinois. Applicant Ex. No. 5

For instance, Article 5, Sections (a) and (b) of applicant’s Articles of Incorporation directly and specifically state that applicant’s organizational purposes are: (a) “to promote the historic preservation, protection and use of Dixon, Illinois’ *traditional downtown area*, including *that area’s* commercial, civic and religious enterprises and residences;” and, (b) “to take remedial actions to eliminate the physical, economic and social deterioration of Dixon, Illinois’ *traditional downtown area* and thereby promote Dixon’s historic preservations, contribute to its community



betterment while lessening the burdens of Dixon's government ...[.]” Applicant Ex. No. 5 [emphasis added].

Such a limited focus can also be gleaned from the testimony of applicant's own witness, Donna Harris, who testified that applicant is strictly concerned with the aesthetic and economic well being of Dixon's downtown commercial district. (Tr. pp. 26-27). By limiting its operational focus in this manner, applicant is in effect providing economic protectionism to a very limited class of persons.

That class consists of those persons who operate commercial businesses or otherwise derive pecuniary benefit from owning property in the downtown Dixon area. Such persons may not be required to support applicant's operations through payment of membership dues *per se*. They do, nevertheless, have definite financial and other business-related interests in *all* of applicant's activities. Because those who hold these interests have a far greater stake in applicant's activities than those who do not, it stands to reason that applicant's primary function is to safeguard the vested economic and other related interests of the relatively limited class of persons who have the greatest stake in its operations. In this sense, applicant's operations are no different from other commercial chambers of commerce and business councils whose primary objectives are to safeguard the economic well-being of those certain commercial businesses that participate in their affairs.

Moreover, applicant's operational limitations have the practical effect of protecting the non-exempt pecuniary concerns of those who have vested economic interests in Dixon's downtown commercial district to the near exclusion of those who do not. Due to these practical constraints, applicant's endeavors cannot benefit, in anything

but an incidental manner, this latter group, which consists of those who hold similar aesthetic and economic interests *outside* of Dixon's downtown commercial district.

Conferring such incidental benefits on this larger class, or the broader public, is legally insufficient to establish that applicant satisfies the definitional criteria, articulated in Crerar v. Williams, *supra* and Methodist Old People's Home, *supra*, of operating primarily for the benefit of an "indefinite number of people." *Accord*, Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987); Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956). Therefore, that portion of the Department's determination which found that the subject property is not in exempt ownership should be affirmed.

With respect to the exempt use requirement, it is briefly noted that all of applicant's post-acquisitional uses furthered the non-exempt operations described above. Consequently, such uses do not qualify as "exclusively charitable or beneficent" within the meaning of Section 15-65. Therefore, that portion of the Department's determination which found that the subject property is not in exempt use should be affirmed.

In summary, the subject property does not qualify for exemption from 1999 real estate taxes because it is owned by an organization that operates primarily to protect the vested interests of the relatively limited class of persons whose pecuniary interests depend on the continued aesthetic, commercial and economic vitality of a very narrowly defined geographical area. Thus, the uses that organization makes of the subject property while furthering those non-exempt objectives do not qualify as "exclusively charitable or beneficent" within the meaning of Section 15-65. Therefore, the Department's determination in this matter should be affirmed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Lee County Parcel Index Number 07-08-05-209-020 not be exempt from 1999 real estate taxes under Section 15-65(a) of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

---

Date

---

Alan I. Marcus  
Administrative Law Judge